

Bradley T. Hunsicker (Wyo. Bar 7-4579)  
Jennifer Salisbury (Wyo. Bar 7-5218)  
**MARKUS WILLIAMS YOUNG & ZIMMERMANN LLC**  
106 East Lincolnway Suite 300  
Cheyenne, WY 82001  
Telephone: 307-778-8178  
[bhunsicker@markuswilliams.com](mailto:bhunsicker@markuswilliams.com)

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF WYOMING**

In re: ) Chapter 11  
)  
POWELL VALLEY HEALTH CARE, INC., ) Case No. 16-20326  
)  
Debtor-in-Possession. )  
)

---

**DEBTOR'S THIRD MOTION FOR ORDER EXTENDING PERIOD  
WITHIN WHICH PARTIES MAY REMOVE ACTIONS**

---

Powell Valley Healthcare, Inc. (the "Debtor"), pursuant to section 105(a) of title 11 of the United States Code (the "Bankruptcy Code"), section 1452 of title 28 of the United States Code (the "Judicial Code") and rules 9006 and 9027 of the Federal Rules of Bankruptcy Procedures (the "Bankruptcy Rules"), hereby files its Third Motion for Order Extending Period Within Which Parties May Remove Actions (the "Motion"). In support of the Motion, the Debtor respectfully represents:

**I.**

**CERTIFICATE OF CONFERENCE**

Counsel for the Debtor has discussed the relief requested in this Motion with counsel for the Committee. The Committee does not oppose the relief sought herein.

## II.

### BACKGROUND

#### B. General Background

1. The Debtor is a Wyoming non-profit corporation qualified to do business pursuant to section 501(c)(3) of the United States Internal Revenue Code as a public charity. Its mission is to provide healthcare services to the greater-Powell, Wyoming community. In fulfilling its mission statement, the Debtor serves a total population of approximately 7500 people with the highest concentration of the population in Powell. The Debtor is the only acute care healthcare facility in Park County, Wyoming and is over 25 miles driving distance from the closest comparable facility.

2. On May 16, 2016 (the “Petition Date”), the Debtor filed its voluntary petition (the “Petition”) for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”), thereby commencing the above-captioned chapter 11 case (the “Chapter 11 Case”). The Debtor continues to manage and operate its business as a debtor in possession pursuant to Bankruptcy Code sections 1107 and 1108. No trustee or examiner has been requested or appointed in the Chapter 11 Case.

3. On June 21, 2016, the Office of the United States Trustee (the “U.S. Trustee”) appointed an official committee of unsecured creditors for the Chapter 11 Case.

**C. Background Facts Specific to the Motion**

4. Prior to the Petition Date, the Debtor was named as a defendant in a number of civil actions. Certain of these actions (the “Actions”) remain pending in state and federal courts Wyoming. The Debtor has not at this time determined whether it will remove all or any of such actions to the district court for the district in which such actions are pending, *i.e.*, the United States District Court for the District of Wyoming (the “District Court”).

5. On August 5, 2016, the Debtor filed a motion to extend the deadline by which the Actions must be removed to the District Court. On August 25, 2016, this Court entered an order extending the removal deadline to February 17, 2017. On February 15, 2017, the Debtor filed its second motion to extend the deadline by which the Actions must be removed to District Court. On March 8, this Court entered an order extending the removal deadline under May 15, 2017.

6. The Debtor has filed a disclosure statement and plan of reorganization. The Debtor does not believe that the plan will be confirmed prior to the May 15, 2017 deadline and the Debtor further does not believe that it will be in a position to make an informed decision with respect to removal while confirmation of the plan is pending. Accordingly, the Debtor brings this Motion.

**III.**

**JURISDICTION**

7. This Court has jurisdiction to consider this matter pursuant to sections 157 and 1334 of the Judicial Code. This is a core proceeding pursuant to section 157(b) of the Judicial Code. Venue is proper before this Court pursuant to sections 1408 and 1409 of the Judicial Code.

**IV.**

**RELIEF REQUESTED**

8. By this Motion, the Debtor requests an order fixing October 15, 2017 as the deadline to remove civil actions initiated prior to the Petition Date (the “Removal Deadline”). The Removal Deadline is currently fixed, per Court order, as May 15, 2017. The Removal Deadline requested herein, if approved, would constitute a five month extension of the existing Removal Deadline.

**IV.**

**BASIS FOR RELIEF REQUESTED**

9. Bankruptcy Rule 9027 and Judicial Code section 1452 govern the removal of pending civil actions. Specifically, section 1452(a) provides:

A party may remove any claim or cause of action in a civil action other than a proceeding before the United States Tax Court or a civil action by a governmental unit to enforce such governmental unit’s police or regulatory power, to the district court for the district where such civil action is pending, if such district court has jurisdiction of such claim or cause of action under section 1334 of this title.

28 U.S.C. § 1452(a). Bankruptcy Rule 9027 sets forth the time period for filing notices to remove claims or causes of action and provides, in relevant part:

If the claim or cause of action in a civil action is pending when a case under the [Bankruptcy] Code is commenced, a notice of removal may be filed only within the longest of (A) 90 days after the order for relief in the case under the [Bankruptcy] Code, (B) 30 days after entry of an order terminating a stay, if the claim or cause of action in a civil action has been stayed under § 362 of the [Bankruptcy] Code, or (C) 30 days after a trustee qualifies in a chapter 11 reorganization case but not later than 180 days after the order for relief.

Fed. R. Bankr. P. 9027(a)(2).

10. Bankruptcy Rule 9006(b)(1) permits the Court to enlarge unexpired time periods as follows:

Except as provided in paragraphs (2) and (3) of this subdivision, when an act is required or allowed to be done at or within a specified period by these rules or by a notice given thereunder or by order of court, the court for cause shown may at any time in its discretion (1) with or without motion or notice order the period enlarged if the request therefor is made before the expiration of the period originally prescribed or as extended by a previous order or (2) on motion made after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect.

Fed. R. Bankr. P. 9006(b)(1).

11. The Debtor is a party to the Actions, which are numerous and complex. Additional time is necessary to determine which, if any, of the Actions should be removed to the District Court. The Debtor has filed a disclosure statement and plan of reorganization and if that plan (or a similar one is confirmed), the Debtor will *not* remove

the Actions. However, if the proposed plan (or a similar one) is not confirmed, the Debtor wishes to preserve its right to remove the Actions. Moreover, an extension of the Removal Deadline will afford other parties to the Actions time to focus upon and evaluate the proposed plan of reorganization as opposed to responding to a removal proceeding which may become moot if the Debtor's proposed plan (or a similar one) is confirmed.

12. The Debtor submits that extending the Removal Deadline will ensure that the Debtor's decisions are fully informed and consistent with the best interests of its estate. Furthermore, nothing herein will prejudice any party to any Action that the Debtor may ultimately seek to remove from seeking to remand such action pursuant to section 1452(b) of the Judicial Code at the appropriate time.

13. For the foregoing reasons, the Debtor submits that the relief requested herein is in the best interests of the Debtor, its estate, and its creditors. As the Court is authorized to grant the relief requested and extend the Removal Deadline, *see, e.g., Pacor v. Higgins*, 743 F.2d 984, 996 n.17 (3d Cir. 1984); (period in which to file motion to remove may be expanded pursuant to Bankruptcy Rule 9006); *In re Fairfield Sentry Ltd.*, 458 B.R. 665, 691 (S.D.N.Y. 2011) (same), the Debtor respectfully requests that it do so.

### CONCLUSION

WHEREFORE, the Debtor respectfully requests that the Court grant (a) the relief requested herein; and (b) such other relief as the Court deems just and proper.

Dated: Cheyenne, Wyoming

May 11, 2017

MARKUS WILLIAMS YOUNG AND  
ZIMMERMANN LLC

By: /s/ Jennifer Salisbury  
Bradley T. Hunsicker (WY Bar No. 7-4579)  
Jennifer Salisbury (WY Bar No. 7-5218)  
106 East Lincolnway Suite 300  
Cheyenne, WY 82001  
Telephone: 307-778-8178  
Facsimile: 307-638-1975  
Email: [bhunsicker@markuswilliams.com](mailto:bhunsicker@markuswilliams.com);  
[jsalisbury@markuswilliams.com](mailto:jsalisbury@markuswilliams.com)

Counsel for the Debtor and Debtor-in-  
Possession

### CERTIFICATE OF SERVICE

The undersigned certifies that on May 11, 2017, a copy of the foregoing was served via U.S. Mail, postage prepaid, upon **The Office of the United States Trustee** and those parties as stated on the Limited Service List attached hereto.

/s/ Jessica M. Anderson  
Jessica M. Anderson

**In re POWELL VALLEY HEALTH CARE, INC.**  
**Wyoming Bankruptcy Case No. 16-20326**

**LIMITED SERVICE LIST**

Last Updated: May 11, 2017

<b>Parties Who Have Entered Their Appearance</b>	
<b>First Bank of Wyoming</b> c/o Timothy L. Woznick Gregory C. Dyekman Dray, Dyekman, Reed & Healey, P.C. 204 East 22nd Street Cheyenne, Wyoming 82001	<b>US Trustee</b> 308 West 21st Street, 2nd Floor Cheyenne, WY 82001
<b>United States Trustee</b> c/o Daniel J. Morse 308 W. 21st St., Ste. 203 Cheyenne, WY 82001	<b>United States Trustee</b> c/o Alan Motes United States Trustee, Region 19 Byron G. Rogers Federal Building 1961 Stout Street, Suite 12-200 Denver, CO 80294
<i>Darcy Ronne, Jan and Bart Brinkerhoff, Jody and Jerry Sessions, Joetta Johnson, Keela and Brock Meier, Lynn and Janet Snell, Martha and Richard McMillen, Michelle Oliver, Nathaniel and Sheena Bates, Shannon Eller, Veronica and William Sommerville, Anthony and Laurie DiPilla, Kalan Nicholson, Nancy and Earl Crawford, III, Nancy and Larry Heiser, Sheryl and Darin Henderson, Susan and Scot Stambaugh, Beverley Curtis, Harry and Jo Ann Knopp, Mark Bonamarte, Shane and Jayme Wilson and Susan and Doug Scott, Nanette Nofzinger, Kelly Hatcher; William C. Haney</i> c/o Randy L. Royal P.O. Box 551 524 5th Ave. S. Greybull, WY 82426	<b>Stryker Instruments, a Division of Stryker Corporation</b> c/o Lori L. Purkey Purkey & Associates, P.L.C. 5050 Cascade Road, SE, Suite A Grand Rapids, MI 49546



<b>UMIA Insurance, Inc.</b> c/o James T. Burghardt Timothy M. Swanson Moye White LLP 1400 16th St., 6th Floor Denver, CO 80202	<b>UMIA Insurance, Inc.</b> c/o Julie Nye Tiedeken McKellar, Tiedeken & Scoggin, LLC 702 Randall Avenue P.O. Box 748 Cheyenne, WY 82003
<b>Powell Hospital District</b> c/o Chad S. Caby Brent R. Cohen Lewis Roca Rothgerber LLP 1200 17th Street, Suite 3000 Denver, CO 80202-5855	<b>Homeland Insurance Company of NY</b> c/o Patrick T. Holscher 141 South Center, Suite 500 Casper, WY 82601
<b>HealthTech Management Services, Inc.</b> George E. Powers, Jr. 1725 Carey Avenue PO Box 328 Cheyenne, WY 82003-0328	<b>William D. Patten</b> George E. Powers, Jr. 1725 Carey Avenue PO Box 328 Cheyenne, WY 82003-0328
<b>HealthTech Management Services, Inc.</b> c/o Ethan J. Birnberg John C. Smiley Lindquist & Vennum P.L.L.P. 600 17th Street Suite, 1800 South Denver, CO 80202	<b>Beckman Coulter, Inc.</b> c/o Daniel R. Schimizzi Bernstien-Burkley, P.C. 707 Grant Street, Suite 2200 Gulf Tower Pittsburgh, PA 15219
<i>Anthony and Laurie DiPilla; Darcy Ronne, Jan and Bart Brinkerhoff; Jody and Jerry Sessions, Joetta Johnson, Kalan Nicholson, Keela and Brock Meier, Lynn and Janet Snell, Martha and Richard McMillen, Michelle Oliver, Nancy and Earl Crawford, III, Nancy and Larry Heiser, Nathaniel and Sheena Bates, Shannon Eller, Sheryl and Darin Henderson, Veronica and William Sommerville</i> c/o Sarah A. Kellogg Robert A. Krause Elizabeth Richards The Spence Law Firm, LLC P.O. Box 548 Jackson, WY 83001-0548	<b>Lexington Insurance Company, Inc.</b> Deborah M. Kellam Lance E. Shurtleff Hall & Evans, L.L.C. 2015 Central Ave., Suite C Cheyenne, WY 82001

<b>20 Largest Unsecured Creditors</b>	
McKesson Corp Bank of America Lock Box LAC-057256 2706 Media Center Dr Los Angeles, CA 90065	COMPHEALTH P.O. Box 972651 Dallas, TX 75397-2651
MRI CONTRACT STAFFING, INC. 10 Penn Center 14th FI-MRI CS TREA Philadelphia, PA 19103	Vista Staffing Solutions, Inc. #50834 File 50834 Los Angeles, CA 90074-0834
Command Health PO Box 844797 Dallas, TX 75284-4797	WEATHERBY LOCUMS, INC. PO Box 972633 Dallas, TX 75397-2633
ENTECH 7300 West Detroit Street Chandler, AZ 85226	SYSCO FOOD SERVICES PO Box 31198 Billings, MT 59107-1198
OWENS & MINOR PO Box 841420 Dallas, TX 75284-1420	Toshiba Am Med Sys, Inc. PO Box 91605 Chicago, IL 60693
AIRGAS USA, LLC P.O. Box 676015 Dallas, TX 75267-6015	FUSION HEALTHCARE STAFFING PO Box 1865 Sandy, UT 84091
PHILIPS HC INFORMATICS PO Box 403831 Atlanta, GA 30384-3831	They Improv, LLC 17275 Collins Ave, #401 North Miami Beach, FL 33160
West Park Hospital ATTN: MELISSA WASSINK 707 Sheridan Avenue Cody, WY 82414	SIEMANS HLTHCR DIAG, INC. PO Box 121102 Dallas, TX 75312-1102
HEALTH TECH MGMNT (HTMS) 5110 Maryland Way Suite 200 Brentwood, TN 37027	NOVA BIOMEDICAL CORPORATION PO Box 983115 Boston, MA 02298-3115

Epiphany Healthcare Data Mgmt LLC 3000 E Boundry Terrace, Suite 2 Midlothian, VA 23112	Powell Electric PO Box 151 Powell, WY 82435
Personal Injury Tort Claimants 1-25 c/o Their counsel identified below	

Tort Claimants	
Spence Law Firm, LLC Attn: Robert Krause P.O. Box 548 or 15 South Jackson St. Jackson, WY 83001	Burg, Simpson, Kepler & Edwards Attn: William L. Simpson 1135 14th St. Cody, WY 82414
Moyers Law, P.C. Attn: Jon M. Moyers 490 N 31st St, Suite 101 Billings, MT 59101	Hallman Hunt & Mickelson, P.C. Attn: Georgia Antley Hunt PO Box 469 Greybull, WY 82426
William R. Fix 350 E Broadway, PO Box 297 Jackson, WY 83001	Wind River Law Center Attn: Cynthia Van Fleet 202 S 6 <sup>th</sup> St E, Riverton, WY 82501
The Law Offices of Collin Hopkins, P.C. Attn: Collin C. Hopkins 705 E. Washington Ave. Riverton, WY 82501	

Secured Creditor
First Bank of Wyoming 245 East 1 <sup>st</sup> PO Box 907 Powell, WY 82435 (See Parties Who Have Entered Their Appearance)

Committee	
Jamie N. Cotter (Wyoming Bar No. 74721) Philip A. Pearlman Spencer Fane LLP 1700 Lincoln Street, Suite 2000 Denver, Colorado 80203	Bryant T. Lamer Eric L. Johnson Lisa A. Epps Scott J. Goldstein Spencer Fane LLP 1000 Walnut Street, Suite 1400 Kansas City, Missouri 64106

Priority Claimants
N/A

Office of the United States Trustee
See parties entering an appearance

Parties Against Whom Relief is Sought
N/A